

MINUTES

P & Z COMMISSION HEARING

August 21, 2008

ATTENDANCE

P & Z Commissioners

ATTENDED

1. Ruth Ann Smith
2. Wendell DeCross
3. Joel Lawson
4. Robert Ingels
5. Rick Slone
6. Bob Hall

ABSENT

Evelyn Meadows
Carol Davis
Jason Hatch
Tom Thomas

Staff Attendance

1. Bill Fraley, Deputy Director of Planning & Zoning
2. Ken Kube, Assistant Deputy Director
3. Linda Elliott, Planner
4. Lance Payette, Chief Deputy County Attorney
5. Peggy Saunders, Senior Secretary
6. Alberto L. Peshlakai, Secretary

Meeting held at the Board of Supervisors Chambers, Holbrook, Arizona – Time 6:01 p.m.

Wendell DeCross called the meeting to order for the Navajo County Planning & Zoning Commission, and welcomed the public to the hearing, and expressed appreciation from the commission for their time to come and address their concerns as well as their input. Mr. DeCross then led the group in the Pledge of Allegiance. Mr. DeCross reminded the group of housekeeping rules and conduct for all participants.

Item # 1- SPECIAL USE PERMIT: Discussion and possible Commission action on a request by Mary Blanche Petersen Trust, for a wireless cellular tower not to exceed 198 feet in height, on the subject 75.3 acre property known as APN: 208-19-001E, located at 5176 Highway 260, in Township 11 North, Range 19 East, Section 24, of the Gila and Salt River Meridian, in the Clay Springs area. Linda Elliott presented the Staff Report, and gave a description of the parcel location at 5176 Highway 260. The actual parcel is in the Pinedale/Clay Springs area between the entrance to Victory Heights subdivision and the LDS Church on Highway 260. The surrounding area is rolling hills with some pine trees, low density residential with some conventional site-built homes as well as manufactured homes. The Victory Heights Subdivision is located to the north of the parcel, the LDS Church is located to the west and the Odd Fellows RV Park is located to the east of the subject property. There is also a lot of forest service property that surrounds the area. The current zoning is A-General. This is a Special Use per the Article 20 designations in Section 2001 of the Special Uses to allow the placement of a 198 foot wireless communication tower near the existing cell tower on the property. The changing conditions would include a second cell tower, located on the same parcel with a total of three towers over 100-feet in height in the surrounding area. There are also a number of ham radio towers in the area. This item was actually noticed a mile in radius instead of the normal 300 foot radius, Ms. Elliott pointed out the one mile area which was noticed and the subject parcel. The proposed use is not allowed in the A-General Zoning District except with a Special Use Permit. **Ms. Elliott** displayed a parcel map and pointed out the tower locations as well as property locations of those who sent in letters of opposition. The Public Works comments are as follows:

The Engineering staff has reviewed the Survey and the Proposed Site Plan, located approximately 400 feet north of SR260 on the ridge line. The leased land for the tower site is 50' by 50'. There is nothing in the vicinity that would be damaged in case of a tower structure failure. While this site is ideal for such a use, it will create further visual pollution along the highway, but, Engineering has no objections to this Special Use Permit. Flood Control Staff does not have any objections to the Special Use Permit. Parcel number 208-19-001E is not in a

flood hazard area as indicated on FEMA map 2325B dated 6-1-1982.

Linda Elliott reiterated that Verizon Wireless is requesting approval to construct a new 198' lattice tower near an existing cell tower on the subject parcel. An equipment shelter with stand-by generator is also proposed. The shelter will be located near the tower and both will be enclosed within a chain link compound. The County encouraged co-location with CellularOne and Verizon started negotiations on structural upgrades to the existing tower. Verizon paid for a co-location application, a structural analysis, and for "structural enhancements". After eight months time, Verizon was notified that the development plans for the tower had changed, and the future projects of CellularOne would require them to structurally alter the tower to support their own future use. After working on structural upgrades to the tower, it was determined that the existing tower would not be approved for Verizon's use. Verizon's fees were refunded, and at the County's suggestion, Verizon continued to negotiate with CellularOne. Finally, Verizon was told they would be allowed to locate their antennae at the 60-foot level, which is 90-feet less than the original 150-foot that Verizon applied for. CellularOne said they were reserving the 150-foot space for their future use. According to Verizon, sixty feet is not an adequate height for their antennae. Since Verizon cannot co-locate on the existing tower, a new tower was needed so that Verizon can improve its network in the area. The County suggested a meeting be conducted in the area prior to the Planning Commission meeting, and Mr. Randy Downing, a Verizon representative, and County staff attended the meeting on July 10, 2008 at 5:30 p.m. at the Pinedale Fire Station. Approximately 40 people attended and the majority of them seemed to be in favor of the tower. Some of their reasons included the need to increase service for EMT's, dropped calls in transit to the area hospitals, no 911 service, and dead areas between Heber and Show Low. Staff also has letters of opposition that were placed in the board packets. Verizon is currently working with the Pinedale/Clay Springs Fire Department to try to work out a co-location with them on Verizon's tower. Other letters received during the week were distributed to Commission members for their packets along with other letters of opposition. **Ms. Elliott** indicated the parcels with opposition letters on the map within the 300 foot radius, and the one mile radius noticed. The ham towers were pointed out as well as other structures and buildings close to the parcel. If the Commission should choose to grant the Special Use Permit, Public Works Staff recommends conditions, as outlined by Staff, be applied. **Wendell DeCross** outlined how the meeting will move forward for the benefit of those In Favor of the Use Permit, and those Opposed to the project.

Applicant/Developer: **Randy Downing**, of Reliant Land Services, 3234 South Fair Lane, Tempe, Arizona, the development company that represents Verizon and the property owner, expressed his appreciation for the time and consideration the commission has given to this proposal. Mr. Downing explained the reasons why they are proposing a new tower, and clarified that the existing fire station is not a cell tower and is used for the fire station communications, and it is not adequate for cell phone antennas or coaxial cables. Mr. Downing gave a history of the project starting in September 2006 Verizon approached Reliant Land Services to locate a site to improve coverage on SR 260 and the outlying residential areas. There is a major coverage gap, which has caused dropped calls, spotty and inadequate coverage for residents, businesses, and travelers along SR 260 and homes in the area. Reliant drove the area with Verizon engineers, and tried to locate an adequate location that would fill the gap. The challenge in the area is the rolling hills along SR 260, and available power and telephone services needed for a cell phone site, and finding a property owner that would be willing to negotiate a lease with us. The existing CellOne tower was identified as a candidate. Verizon ended up filing an application with CellularOne at the beginning of 2007, and once the application was in process, Verizon filed for zoning approval with the County, which was administrated on 2-26-07. At that time Verizon was working with CellularOne in good faith to come up with construction drawings and a building permit, and structural analysis. Verizon found that the structure of the tower was inadequate and offered and paid for fortifications, and in good faith worked with the tower owner to co-locate on that tower. At the end of January 2008, over a year after filing the application, they were told by CellularOne staff that their plans had changed and they would not allow Verizon to co-locate on their tower. They received that information in writing via email and in phone conversations that left them with a challenge. They were not able to locate in the area where they had spent 15 months trying to secure, and basically were starting from square one again. Fortunately they had been negotiating with the property owner for ground space, and went out to the site again with the engineers and determined that the location on the ridge next to the existing tower was the best possible spot to propagate the best signal from the east to the west along SR260, and make sure that the coverage gap was not just improved but maximized along the highway and the outlying areas. At that time we had designed a site similar to something that was previously approved, and had applied for this Special Use Permit on March 26, 2008. After applying for the use permit we received phone calls from staff with conversations about the history of the area and the site. We were not aware that in 2003 when the original tower was approved there was a lot of opposition and debate on whether or not that tower would go forward, but was ultimately approved by Planning and Zoning and the Board of Supervisors.

Verizon offered to postpone setting the hearing date, to notify neighbors and have a neighborhood meeting to see if we could come to a solution or at least present what Verizon was proposing. They worked with the Pinedale Fire Department to schedule a meeting place and in June 2008, sent out notifications for the July 10th meeting. Because the site affects a lot of people they placed notices in the local post offices and received 18 pages of signatures from Verizon customers and potential Verizon customers who recognized the lack of cell phone service and the need to improve the service in the area. At the neighborhood meeting, sign in sheets were passed out and people were asked to fill out their name address and contact information, and leave a comment whether they were for or against the facility. There were more in favor than in opposition, but the handful of people who were in opposition of the site, were more vocal, and their concerns ranged from not wanting to put another tower in the area and the fact that the existing tower owner promised co-location, to not wanting the site period. We tried to discuss the issues and explain how Verizon came to this application, but at the end of the meeting, Mr. Downing agreed to revisit co-location with CellOne and see if they had changed their mind, and also try to work with the fire station to see if they would move their antennae to Verizon's tower. Since that meeting, he contacted CellOne again and did not get a response from them. After some feedback from some of the concerned neighbors, and County Staff, he received an email back from CellOne saying Verizon could co-locate at 60 feet, as opposed to the 150 feet they applied for. As of August 18th, there were no antennas located at the 150 foot "rad" center, and in discussions with staff, there are no applications for CellOne to use that radiation center. With that said, he gave that information to their engineers, to run the propagation at 60 feet, and they came to the conclusion that a radiation center at 90 feet less than what we need and 120 feet less than what the existing tower owner has, would not be adequate to fill the gap or solve the problem and would cause the need for another site. In our opinion this is a hardship since there is one site covering the area for our competitor. Mr. Downing also met with the Fire Department to discuss re-location of their equipment on our tower. And the potential removal of our tower and have not come to an agreement at this time. Verizon is willing to look at that, as a possibility and even willing to relocate the Fire Department's equipment at Verizon's cost. There are some issues that need to be worked out, and at this time we can't commit to anything to the Fire Department, and don't want to include that as part of this agreement. Verizon has spent almost 2 years developing the site, and if this site is approved it would be over two years before we are on air, we request that the Planning and Zoning Commission recommend approval of Verizon's application. We are seeking the same treatment that our competition received for their approval to locate and service the area. Verizon has made a very good faith effort to try to co-locate, and look at all the potential locations in the area, and through a lot of due diligence and time, have found that the co-location possibilities are not possible. With that said Mr. Downing very respectfully reminded the Commission that the Federal Telecommunications Act of 1997 that guides jurisdictions in approval of these applications in a couple of the stipulations from the Act states that you must not unreasonably discriminate among providers, amongst equipment services, not prohibit or have the effect of prohibiting the provision of personal wireless services, not to deny an application without substantial evidence supporting such a denial, and act on any such application within a reasonable amount of time. Again, with Verizon's challenge in trying to service the area for their customers, the benefits of improved cellular service for Verizon customers for emergency purposes and their use, we respectfully request a recommendation of approval from the Commission. Mr. Downing will answer any questions the commission may have.

Wendell DeCross opened the floor to the general Public with Comments "**In Favor**" of the project. Due to the number of people who requested to speak, Mr. DeCross asked that they limit their comments to two or three minutes.

Kathleen Crandell of Heber thinks this tower is a necessity for the public's benefit, because there is no way you can hear anything from Linden clear to Bison Ranch. They can't get a signal out, and she feels it is very important to have this tower. **Marilyn Hall**, is a 37 year resident of the Heber/Overgaard area, a business owner, Clerk of the Heber/Overgaard Fire District and a former medic who served for 12 years. Her main concern, from a community and a public safety standpoint, was that emergency medical services could be adversely affected by inadequate cell coverage. The lack of coverage could possibly have a negative impact on patient care, and the ability of the caregivers to contact for medical direction, or seek additional help if needed; such as a helicopter. She has personally been involved in that situation and feels the Commission should seriously consider approving this application for the welfare of the community members. **Gary Cunningham**, a Captain of the Linden Fire Department, said Fire Chief Alcott asked him to relay to the Commission that this service is needed for patient care; due to black out areas and poor reception. **Alvin Livingston**, with Linden Fire Department is in support of the tower for better reception in the area, and better 911 services. **Rob Garvin**, Fire Chief for Clay Springs/Pinedale Fire District, said he is happy with the tower they have, but is in support of the ambulance crews statements, that it is

patient care that suffers; if they, (the EMT's) cannot talk to the hospital, that patient is not getting the full coverage that they need. There are a lot of dead spots with the rolling hills, and we have two EMS districts in the area, Heber takes care of one half and Show Low has the rest. Show Low can receive pretty well in their area, but Heber has a dead spot and we need the extra boost in service to get the coverage we need.

With no further comments in favor, **Wendell DeCross** took a moment to introduce and welcome the new commission member of the Planning and Zoning Commission, **Bob Hall**, after which **Mr. DeCross** opened the floor for comments "**In Opposition**".

Jim Wheeldryer of 5287 El Cerrito Road in Victory Heights agrees there is a need for better coverage, and is very much in favor of having additional cell tower capability. They are Verizon customers and would welcome better service; however, he feels this is not an appropriate location for this kind of cell tower. With all the cell towers, emergency radio tower of the fire department, and several ham radio towers, it is in danger of becoming a tower farm right on the edge of a residential area. Mr. Wheeldryer pointed out the proposed tower location on the map that showed the density of the clusters which come right to the edge of Victory Heights. There are 71 homes within 1 mile, 274 homes within 2 miles of the tower. Not just mobile homes, high end homes within close radius of the tower. Tower farms will have an impact on property values. There are 30.5 million dollars of assessed valuation of these home properties. These homeowners have a significant investment in their homes, and even with a small decrease in property values it would have a big impact. The first option the homeowners would prefer is to see the co-location with Cellular One; the second option would be to move the tower to a location nearby, and third option, which is strongly recommended if the Commission votes to approve the tower, is to co-locate the Fire Department equipment on their tower at their expense. **Kimberly Burd** of the Victory Heights subdivision shown as parcel 21C, is not opposed to cell towers, and does not see wireless service going away anytime soon, but feels that as a general rule, towers, especially over 100' should not be placed in a residential neighborhood. It is her understanding that all alternative solutions in regard to placement of a cell tower must be exhausted under the telecommunications act before they select a site. She can't believe that Verizon with all it's vast resources has explored all its options prior to choosing this tower location. This location is probably the cheapest and easiest for Verizon, after all there is already a cell tower so they figure they can just put another one right next to it. The home owners believe there must be a better location available in this residential neighborhood. It may cost more to change the location, but that is the cost of doing business and being a good member of the community. Companies routinely go the extra mile when deemed necessary so they can fit into the area. A year ago a 400 foot radio tower was proposed for the same general area, but found a suitable location several miles away which minimized the impact on our community. Since Verizon can share the lower portions of the Cellular One tower that already exists, that should suffice to improve the cell service for the residents of the area. If they don't like that option they should explore other less invasive locations, or consider using a step type tower system using shorter towers along the road to accomplish the same purpose. If they would expand their search area they would find a more suitable location to build a similar or somewhat taller tower that is not as invasive on the residential area. It comes down to whether the County should allow the clustering of towers over 100 feet in height, contrary to ordinance, in a residential area. **Mr. Lynn Bailey** agreed with the others that spoke in opposition, that they are not opposed to communication"; it is the location of the tower they oppose. Fire destroyed the other side of the road, and the view for years to come, but he doesn't believe that is the only place they can put the tower. They are trying to keep this area free of eyesores. Mr. Bailey presented a petition with several names from people in the area opposed to the project. **Richard Kloc**, owner of parcel 18C in Victory Heights, lives on the slope of the hill with all their views to the south, but the tower is right in their viewpoint. He is not against towers to enhance communication, but is against putting a cell tower in a low density residential area. Mr. Kloc is also a real estate appraiser and realtor, since 1980, and has never had a customer asking him to find him a house backing up to the biggest cell tower that you can find. But he has seen a negative impact on eyesores like this and on neighborhoods like this from adverse influences. He said if they continue to build towers on this parcel it will affect everyone's property values around the property. We heard here today from people who live in Clay Springs and Linden, we've heard from Heber/Overgaard which is a good 15 to 18 miles away. If he lived in one of the other areas mentioned he too would be gung ho for this tower. Everyone who was at the meeting at the Firehouse are not all identified on the parcel map shown. Those people are safely tucked a few miles away, and they will benefit at our expense. He asked the Commissioners to consider protecting their neighborhood, protecting our values, because some of us have our life savings in this neighborhood. **Mickie Oliver**, also a resident of the Victory Heights area, said she is not against the tower, she is against the location. However, she strongly feels CellularOne has the responsibility to the community, because when their tower was approved, they promised that we wouldn't have a tower farm, they promised that they would allow other communication people to co-locate on their

tower. She strongly believes that the Planning & Zoning Commission should admonish CellularOne, and make them hold true to what they promised us, as property owners, when they were finally given permission to put that tower up. She believes they owe it to Verizon to allow them the 150 feet not being used. She hopes that the Planning & Zoning Commissioners would thoroughly explore and go to CellularOne to accomplish that end. **Ken Burd** said, the more he listened to the matter, the more he felt they were going to put two near 190 foot towers side by side on the hillside. He had communicated with CellularOne and he was told that the best way to prevent another cell tower was to let us build the tower and we will absorb the hardware. That hasn't proven to be true. Mr. Burd was "anti Verizon" before this meeting, and then he realized that CellularOne was not keeping the bargain. They agreed to take on the equipment of another company. Verizon has offered to come on board, and would be willing to do that. He feels like CellularOne has violated their contract, or their permit. If they are not willing to comply with that, I would say make CellularOne take their tower down, and let Verizon put their tower up and they will accommodate the fire department, and we will have one tower that can accommodate CellularOne and Verizon and we won't have to have two towers 190 foot, side by side. What they are really looking at here is an eyesore. **Richard Watkins**, CEO of CellularOne said he did make the commitment to allow other carriers to come on the tower, and we have one that is there, Sprint Communications is on the tower as we speak and are putting other communications on the tower. We granted Verizon permission to be on the tower, but the spot on the tower we granted them was not enough for them at 60 feet. The application Verizon filed was at 100 feet, not 150 feet. Verizon is a fine company, don't get me wrong, we have worked together and we have co located before, I have no problem with Verizon whatsoever. Verizon knows, and on their towers we were given us same restrictions. He does not want another tower there, and couldn't agree with everybody more, he thinks it's ridiculous for us not to find a way to do it. As usual CellularOne, who is the largest community supporter in this county, gets thrown under the bus, without the right information. We've done everything we could, and what he is asking the commission to do is give us 30 days for CellularOne to work with Verizon and we'll come up with a solution, and we will not have to build another tower, we will get them on our tower. We'll find a way to do it, which is the right thing to do, we have the obligation; but he just wished people would have all the facts and information before they throw us under the bus for no reason. We think we have done nothing wrong; we are a small company and we don't have the resources Verizon has. It takes us longer, and here we are, we never denied them, we just never could agree at what level, or which spot they could be at on the tower. Tonight they said 150 is not being used. Right now we are building another cell site in Overgaard which is going to be a microwave path back to Linden, back to Pinedale, and we need that space for that dish. It is being used. Verizon also knows that the top of the tower is the most valuable space. At Verizon towers they always want us to go below, which we have, but I don't have a problem with Verizon, we have competed with them for 15 years, and have never had a problem they are a powerful company. If you give us 30 days we will have a solution and the solution will be one tower. That is what he is here to offer tonight. We'll build one tower. With no other speakers in opposition **Wendell DeCross** turned the time back to Staff. **Bill Fraley** said he heard Mr. Downing say they were working with the fire department and he would ask if the fire department co-located on Verizon's tower, would the fire department tower come down. So that would be one tower coming down. The comments Mr. Fraley wanted to make was to reiterate that Verizon has done basically everything they said, and have gone back to CellOne as we asked and they tried to work things out, and as Mr. Watkins has said, they are still willing to work things out and that's a good thing. The other thing he wanted to bring up and point out to the Commission, particularly in view of the offer that was just made, the fact that Lance Payette from the county attorney's office is here, and have him address to you if you have questions on the Telecommunications Act, and also he is curious as to the 30 day offer, what his comments would be. **Wendell DeCross** turned the time over to the Commissioners to ask questions. **Joel Lawson** said he would be interested in hearing from Chief Deputy County Attorney as to what we can do about the 30 days proposal made by Mr. Watkins. He also said it was interesting that a letter dated July 9, 2007, on the second page, second paragraph from Scott Bailly, Mr. Lawson paraphrased the first sentence, "In an attempt to refute our argument regarding tower farms, the Commission and CellularOne representative Carl Weibel stated that the proposed tower would be able to accommodate antennae in the future...", and has heard that over and over again, but didn't see it recorded in the minutes. He is also hearing that CellOne has offered space at 60 foot, but is that adequate for any kind of coverage. **Mr. Watkins** replied that he cannot speak for Verizon, but when **Mr. Lawson** repeated the question if it would satisfy CellularOne, Mr. Watkins answered, "no, it would not satisfy CellularOne". **Wendell DeCross** asked if Verizon's representative would like to address whether the 60 foot would work. **Randy Downing** answered, that Verizon did have their engineers run propagation at 60 feet, and the coverage difference does not cover the area or solve the problem, so 60 feet is not acceptable to Verizon. **Ruth Ann Smith**, asked Mr. Downing, when looking at the difference between 100 and 150 feet that you are desiring for placement on that tower, if he could give the Commission any idea on the difference in coverage that you would be providing on the ground, if you had to accept 100 ft. Mr. Downing explained that he did not have the

original drawings, whatever was on those drawings if we were allowed to go at that available height, that would be acceptable. It was his understanding that it was 150 feet, but he would have to confirm that. He knows that the tower is 180 feet and it was right below the top two arrays, which would put it at about 150 feet. If we could co-locate where we applied that would be acceptable to Verizon. **Joel Lawson** asked him to explain if there was any reason why it would be beneficial to Verizon to have a separate tower rather than co-locate on someone else's. **Mr. Downing** responded, that for a cell company to own their own tower is usually a benefit. They control what they can put on the tower, how tall the tower is; where their antennas go; they control the lease, the terms are usually better, so having your own tower would be preferred. With that said, we have worked for over a year on a co-location. He received numerous emails from CellularOne saying Verizon would not be able to co-locate with them, before we ever proposed our own tower. So, having their own tower would be a benefit, it would be preferred, but that is not how we sought to cover the objective in this area. We looked at all co-location possibilities first before we proposed our own tower. **Rick Slone** asked if co-locating on the 400 foot tower; was an option? **Mr. Downing** explained that they had looked at all the co-location possibilities in the area, but the challenge with the 400 foot tower, which he believed was an FM Tower, are the interference issues. Usually radio towers will not allow that type of co-location on their tower. In this case, 4 or 5 miles makes quite a difference. This site is in between two areas we are trying to cover along SR260, and it is elevated, so if you move it one way or the other, you will move it down into a hole, or you're up on another area without available sources. **Mr. Slone** asked if you could get 200 feet or 250 feet, there are a lot of options on a 400 foot tower. They did state that they would be willing to co-locate on that tower. **Mr. Downing** said it was his understanding that wireless and FM signals just won't work. He added that he is not an engineer, so he can't make a statement based on radio frequency or propagation, normally they do not locate on those types of towers. **Mr. Slone** asked Mr. Watkins if he knew if there were enough vertical separation, could they co-locate on that tower, and **Mr. Watkins** said that there are significant issues with FM, or AM Towers, he learned the hard way when he placed a tower in Show Low on Ellsworth, and it was about 500 yards from the radio tower. They spent at least \$70,000.00 to "de-tune" their signal so it wouldn't interfere, so he agreed with Mr. Downing that it is almost impossible to make it work, and very expensive. Mr. Watkins wanted to make it clear to the Commission that they were not talking about 60 feet; he will get Verizon a spot on that tower where it will work for them. He's not going to give them any degradation and is going to allow them to fulfill their objectives. They have Sprint on the tower already and they will figure out a way to put Verizon on the tower. **Rick Slone** acknowledged that CellOne is extremely community oriented, and he believes that they will work with Verizon, and Mr. Downing asked if that was something Verizon would be willing to do? **Mr. Downing** said that was something they have been trying to do since the beginning of 2007, at this point, **Mr. Slone** reminded Mr. Downing that CellOne is on record that in 30 days you will have a solution, is that an option? **Mr. Downing** said he respects that, but he has quite a bit of documentation from CellOne employees saying we are not allowed to co-locate. He is not able to negotiate; only his client Verizon is, but would say that Verizon would be willing to co-locate, or to talk to CellOne, but he would also not like to have this process held up. If they can work something out in the next 30 days between this hearing and the Board of Supervisors hearing, then so be it. But, we've experienced lengthy delays in this process and we are at the point now where we can't be delayed whatever happens. **Rick Slone** asked Mr. Payette if the Commission could rule on this with a stipulation, and "word" it so they have that 30 days, without coming back to the Commission assuming they don't reach an agreement with CellOne? **Lance Payette** said that is all the Verizon representative is really saying. You have at least 30 days before it gets to the Board of Supervisors, so certainly if you approve it tonight, and they are able to reach an agreement, and withdraw their application that would solve the problem. I don't think it is reasonable to be allowing a competitor to be negotiating what has to happen on this application. They have a pending application that they a right to a timely ruling on. So to have a competitor come in and say you should require them to negotiate with me for 30 days, he doesn't think that is the Commissions jurisdiction. It sounds like, with all the efforts Verizon has put out, if it is doable within 30 days, Verizon will do it. If it is not doable within 30 days, they have a right to a decision on this application that does not hinge on them negotiating. We've had a similar circumstance where we always get the argument on any number of zoning issues, that there is always a better location down the road. The example given was, "I know somebody that they should negotiate with, and they won't have to use this property". We've said repeatedly that the Commission has to deal with the application that's in front of it; and it's really not within the Commission's jurisdiction to say, "go check out these other properties and come back to us". That's essentially what would be doing if you accept a competitor's invitation to negotiate as a part of this application. **Mr. Slone** said that was why he was asking if they could rule on it, and if they reached an agreement it would just go away because all we do is make a recommendation, **Mr. Payette** said, if they reach an agreement, the application will never be seen by the Board of Supervisors. **Jim Wheeldryer** addressed the commission and said based on what he has heard, he was concerned that by approving the Verizon proposal, that would remove all incentive for them to negotiate

with CellularOne. He understands there have been good faith negotiations, and they haven't been fruitful for Verizon. It sounds like there might be some opportunity for coming to a successful conclusion. His concern as we just heard from Verizon's representative, that it is preferable to have their own tower. If you approve, you just remove all incentive for them to negotiate in good faith. Mr. Wheeldryer strongly recommends against doing that.

Wendell DeCross addressed the public, and reminded them that the Arizona Revised Statute allows for this Commission to recess and go into an executive session for legal counsel. He will take that prerogative and entertain a motion to recess this at this particular point in time. There are other legal ramifications this Commission needs to take a look at, that have to do with the Telecommunications Act. **Richard Watkins** added that CellularOne does not prefer to own its own towers, that is not their company's position; it has become burdensome for them. Larger carriers, I think would prefer that, but we absolutely would rather co-locate as a tenant, than try to be a landlord because it ends up right here. That is CellularOne's position, we would much rather co-locate. **Robert Ingels** made a motion that the Commission go into executive session to discuss the matter before us. **Joel Lawson** seconded the motion. The motion carried unanimously. The hearing was recessed at **7:09 p.m.**

Wendell DeCross reconvened the public hearing at **7:29 p.m.** and opened the hearing to the Commissioners for any other questions they may have, comments, or action they might want to take. **Robert Ingels** commented that he appreciates the attempts at negotiating thus far, and because of the nature of what we are discussing, the importance of Staff providing us with a very thick packet of information. It was nice to have it well in advance of the meeting, except for the ones that came in tonight. He is very understanding and sympathetic that the cell service and the enhancement of that is the goal for the betterment of the health for the majority of both our local citizens and the traveling public. There is a strong sentiment that people would like better service. However, the domination of towers in the landscape is also a concern. With the recent discussion of another 30 days being an option for additional negotiation to co-locate and share the structure space, and enhance the service, I feel optimistic that we have a solution. He is troubled that this has been an ongoing problem for many years prior to his being on the Commission. He is on record that he has not been supportive of cell towers. He does like service, and he is hopeful that if we move forward with this, that we will be able to address additional co-location and sharing so that the benefits are maximized and the visual intrusion and the concerns that have been expressed repeatedly when cell towers come up, will be minimized. We try to move ahead with this, and some of the legal advice we've received will help us individually to make our decision. He also appreciates hearing the opinions and feelings of the public. Staff has done an excellent job of getting this material to us. **Joel Lawson** said that after reading the packet it and looking at the letters in favor, it appears that there are a lot of people who will be served by having better service. When you talk about the tower farm aspect, he is hoping that we can do something to make some stipulations so there will be more cooperation, it will then be on the record for any new towers. He felt that looking at two towers side by side with red lights all around it, would be better than putting red tower lights throughout the neighborhood. It appears the extra service could be a good thing for a lot of people. He recently had the land line phone company come and offer to lower his rates because they are losing so many subscribers, so there may be a possibility that the land line could go away sometime, and that would make it very important for people to have cell coverage. **Ruth Ann Smith** said that as Commissioners, we also have to take into consideration the health, safety, and welfare, of not only the people who live in the general area, but also those in outlying areas. There does seem to be a significant concern about communications with the hospitals, and 911 communications that the Commission cannot take lightly as long as we have that large a gap in communication from the Heber/Overgaard area to the Show Low area. We are putting people's lives in jeopardy when they are requiring either 911 services or ambulance transport. With that in mind Ms. Smith, wanted to state her position, which is a detail that should weigh very heavily into the equation for this Commission. The Commissioners, **Ruth Ann Smith, Rick Slone, Robert Ingels, Joel Lawson, Wendell DeCross** discussed the possibility of adding a stipulation, with suggestions from **Bill Fraley** and following legal counsel advice, a motion was made by **Ruth Ann Smith** to approve the Special Use Permit with the stipulations as outlined by staff, but to add an eighth condition stating "Every attempt for possible co-location/shared use of the tower structure shall be pursued." The motion was seconded by **Bob Hall**, which was approved with a vote of 5 in favor to 1 nay from **Robert Ingels**. **RECOMMENDED CONDITIONS:** 1. *The Special Use Permit shall permit a wireless communication tower, 198 feet in height, on the subject property.* 2. *The permitted Special Use shall be allowed to occur only in the location shown on the approved site plan.* 3. *The permitted Special Use shall run with the land.* 4. *The applicant shall obtain a building permit for such tower.* 5. *The applicant must meet all State and Federal requirements concerning communication towers prior to any building permits being issued.* 6. *If the tower is no longer being utilized, the owner shall cause at his expense the removal of all components of this tower within a 90-day period.* 7. *The leased area shall be enclosed with a 6-foot high fence topped with three*

strands of barbed wire. 8. Every attempt for possible co-location/shared use of the tower structure shall be pursued.

Wendell DeCross asked that the record show that the motion was approved and the recommendation for approval will go to the County Board of Supervisors. Those in the public who were opposed to this action can also attend the Board of Supervisors' hearing when they address this particular issue.

Item # 2- Election of Officers. Bill Fraley was asked to read the letter of resignation from John Dalton, for the record, which was written to J. R. DeSpain. Staff received the letter on August 9th, 2008, but it was written on July 30, 2008 which stated: Dear Supervisor DeSpain, I regret to inform you that I must tender my resignation from the Planning and Zoning Commission as of this date. I have accepted a call to serve in the Puerto Rico San Juan Mission for a period of two years. My wife and I will be leaving August 9th. Over the years that I've served on the Commission, I have worked with a lot of very good and dedicated people, and I will miss the association with them. I thank you and the County people for the trust that you have placed in me by allowing me to stay on the Commission for so long. I will certainly miss the friends that I've made on the Commission, Board and staff. Please thank the Board, Commission and staff for the great people they have been over the years. Sincerely, signed, John Dalton. Wendell DeCross said this resignation was accepted by the Board at their meeting, and noted that with this letter of resignation we do have a position to fill, that is the Chairman of this Commission, we are going to fill that position this evening by electing new officers. Mr. DeCross opened the floor to nominate the position of Chairman of this Commission. Robert Ingels nominated Wendell DeCross to be the Chairman, and was seconded by Ruth Ann Smith. Robert Ingels, made a motion to close the nominations, which was seconded by Bob Hall. The motion carried unanimously. Wendell DeCross then opened the floor for nominations for Vice-Chairman. Robert Ingels nominated Ruth Ann Smith, at which time Ms. Smith respectfully declined. Rick Slone nominated Joel Lawson for Vice Chairman, of the Navajo County Planning Commission, and was seconded by Ruth Ann Smith. The motion carried unanimously. Mr. DeCross thanked the Commission, for their trust in his actions, and that John Dalton had served for a lot of years, and his would be big shoes to fill.

Item # 3- Possible approval of the April 17, 2008 Minutes.

Robert Ingels was impressed at how accurate and detailed the minutes were, and he made a motion that the minutes be adopted as presented. This was seconded by Ruth Ann Smith. The motion was unanimously approved.

Item # 4- Possible approval of the May 15, 2008 Minutes.

Robert Ingels made a motion that the minutes be adopted as presented. This was seconded by Ruth Ann Smith. The motion was unanimously approved.

Item # 5- Commissioners' comments and/or directions to staff. Commissioners may use this time to offer additional comments regarding any time on this agenda or any other topic. The Commission may direct Development Services Department staff to study or provide additional information on topics of the Commissions' choosing. Robert Ingels attended a meeting in May on Low Impact Drainage and a new way of thinking was presented on how to handle our runoff return, which Jeff McCormick of the Department of Commerce presented. Bill Fraley, will be meeting with Mr. McCormick to talk about that issue, and suggested that when we have only a few items on the agenda, such as in September, we could do this presentation on low impact development. Bob Hall wanted to say how excited he was to be asked to serve on the Commission and thanked John Dalton for recommending him. He is looking forward to the future, and working with the Commissioners. Mr. DeCross again apologized for his oversight in not recognizing him earlier, and welcomed him as a new commissioner. Mr. DeCross pointed out the Boards and Commission Conference reminder sent out in their packets, and encouraged all the commissioners to attend this conference at the Black Canyon Conference Center in Phoenix. This is a very valuable tool available to the Commissioners. At that time Mr. DeCross directed staff to look into the possibility of preparing an Ordinance for Wireless Towers. Bill Fraley said he will look into that, and he too congratulated the new officers, and said the Board of Supervisors wrote a letter to John Dalton, and wondered if the Commission would like to do a similar letter. Mr. DeCross agreed that would be very appropriate, especially after 30 years of service. Mr. DeCross also congratulated Lance Payette and his new bride, and thanked him for being there. With there being no further business to come before the Planning & Zoning Commission a motion to adjourn was made by Ruth Ann Smith, and seconded by Joel Lawson 7:57 adjourn.

NOTE: a copy of the agenda background material provided to the Commission Members (with exception of material relating to possible executive sessions) is available for public inspection at the Development Services Office, Navajo County Complex, Holbrook, Arizona, Monday through Friday, 8:00 a.m. to 5:00 p.m.

Approved this _____ day of _____, _____.

Chairman, Navajo County
Planning & Zoning Commission

ATTEST:

Senior Secretary, Navajo County
Planning and Zoning Department